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[Additional Attorneys and Plaintiffs on Signature Page]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

SAFeway INC., WALGREEN CO., THE
KROGER CO., NEW ALBERTSON'S, INC.,
AMERICAN SALES COMPANY, INC., and
HEB GROCERY COMPANY, LP,

Plaintiff,

vs.

ABBOTT LABORATORIES,

Defendant.

[caption continues next page]

Case No. C 07-5470 (CW)

*Related per October 31, 2007 Order to
Case No. C-04-1511 (CW)*

**PLAINTIFFS' REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF THEIR
OPPOSITION TO ABBOTT'S OMNIBUS
MOTION TO DISMISS**

Date: March 6, 2008

Time: 2:00 p.m.

Courtroom: 2 (4th Floor)

Judge: Hon. Claudia Wilken

1 SMITHKLINE BEECHAM CORPORATION)
d/b/a/ GLAXOSMITHKLINE,)

2)
3 Plaintiff,)

4 vs.)

5 ABBOTT LABORATORIES,)

6 Defendant.)
7)
8)

Case No. C 07-5702 (CW)

*Related per November 19, 2007 Order to
Case No. C-04-1511 (CW)*

**PLAINTIFFS' REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF THEIR
OPPOSITION TO ABBOTT'S OMNIBUS
MOTION TO DISMISS AND
GLAXOSMITHKLINE'S OPPOSITION
TO DEFENDANT'S MOTION TO
DISMISS COMPLAINT**

Date: March 6, 2008

Time: 2:00 p.m.

Courtroom: 2 (4th Floor)

Judge: Hon. Claudia Wilken

11 MEIJER, INC. & MEIJER DISTRIBUTION,)
12 INC., on behalf of themselves and all others)
13 similarly situated,)

14 Plaintiffs,)

15 vs.)

16 ABBOTT LABORATORIES,)

17 Defendant.)
18)
19)

Case No. C 07-5985 (CW)

*Related per November 30, 2007 Order to
Case No. C-04-1511 (CW)*

**PLAINTIFFS' REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF THEIR
OPPOSITION TO ABBOTT'S OMNIBUS
MOTION TO DISMISS**

Date: March 6, 2008

Time: 2:00 p.m.

Courtroom: 2 (4th Floor)

Judge: Hon. Claudia Wilken

20 ROCHESTER DRUG CO-OPERATIVE,)
21 INC., on behalf of itself and all others similarly)
22 situated,)

23 Plaintiff,)

24 vs.)

25 ABBOTT LABORATORIES,)

26 Defendant.)
27)
28)

Case No. C 07-6010 (CW)

*Related per December 3, 2007 Order to
Case No. C-04-1511 (CW)*

**PLAINTIFFS' REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF THEIR
OPPOSITION TO ABBOTT'S OMNIBUS
MOTION TO DISMISS**

Date: March 6, 2008

Time: 2:00 p.m.

Courtroom: 2 (4th Floor)

Judge: Hon. Claudia Wilken

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1 LOUISIANA WHOLESALE DRUG
2 COMPANY, INC., on behalf of itself and all
3 others similarly situated,

4 Plaintiff,

5 vs.

6 ABBOTT LABORATORIES,

7 Defendant.

8
9 RITE AID CORPORATION; RITE AID
10 HDQTRS, CORP.,; JCG (PJC) USA, LLC;
11 MAXI DRUG, INC. d/b/a BROOKS
12 PHARMACY; ECKERD CORPORATION;
13 CVS PHARMACY, INC.; and CAREMARK,
14 L.L.C.,

15 Plaintiff,

16 vs.

17 ABBOTT LABORATORIES,

18 Defendant.

) **Case No. C 07-6118 (CW)**

) *Related per December 10, 2007 Order to*
) *Case No. C-04-1511 (CW)*

) **PLAINTIFFS' REQUEST FOR JUDICIAL**
) **NOTICE IN SUPPORT OF THEIR**
) **OPPOSITION TO ABBOTT'S OMNIBUS**
) **MOTION TO DISMISS**

) **Date: March 6, 2008**

) **Time: 2:00 p.m.**

) **Courtroom: 2 (4th Floor)**

) **Judge: Hon. Claudia Wilken**

) **Case No. C 07-6120 (CW)**

) *Related per December 5, 2007 Order to*
) *Case No. C-04-1511 (CW)*

) **PLAINTIFFS' REQUEST FOR JUDICIAL**
) **NOTICE IN SUPPORT OF THEIR**
) **OPPOSITION TO ABBOTT'S OMNIBUS**
) **MOTION TO DISMISS**

) **Date: March 6, 2008**

) **Time: 2:00 p.m.**

) **Courtroom: 2 (4th Floor)**

) **Judge: Hon. Claudia Wilken**

19
20
21 **[Exhibit 1 Submitted Under Seal]**
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1 Pursuant to Federal Rule of Evidence 201(b), Plaintiffs request that the Court take judicial
2 notice of the following documents attached as Exhibits 1 through 6:

3 1. Excerpts of the Rebuttal Expert Report of Joel W. Hay, Ph.D, submitted in *In re*
4 *Abbott Labs Norvir Antitrust Litigation*, Case No. C-04-1511 CW. A true and correct copy of this
5 document is attached as Exhibit 1.

6 2 Excerpts of the Notice of Motion and Renewed Motion of Abbott Laboratories' for
7 Summary Judgment filed in *In re Abbott Labs Norvir Antitrust Litigation*, Case No. C-04-1511
8 CW and dated January 9, 2006. A true and correct copy of this document is attached as Exhibit 2.

9 3 Excerpts of the Reply Brief in Support of Abbott Laboratories' Renewed Motion
10 for Summary Judgment filed in *In re Abbott Labs Norvir Antitrust Litigation*, Case No. C-04-1511
11 CW and dated March 21, 2006. A true and correct copy of this document is attached as Exhibit 3.

12 4 Excerpts of Abbott Laboratories' Opposition to Plaintiffs' Rule 56(f) Motion filed
13 in *In re Abbott Labs Norvir Antitrust Litigation*, Case No. C-04-1511 CW and dated July 1, 2005.
14 A true and correct copy of this document is attached as Exhibit 4.

15 5. Excerpts of the Notice of Motion and Motion for Summary Judgment of Abbott
16 Laboratories filed in *In re Abbott Labs Norvir Antitrust Litigation*, Case No. C-04-1511 CW and
17 dated June 1, 2005.

18 6. Excerpts of the Opening Brief of Appellant PeaceHealth, 2005 WL 3517798, in
19 *Cascade Health Solutions v. PeaceHealth*, --- F.3d ----, 2008 WL 269506 (9th Cir. Feb. 1, 2008)
20 (No. 05-35640 et al.). A true and correct copy of this document is attached as Exhibit 6.

21 Facts can be judicially noticed that are "not subject to reasonable dispute" because they are
22 either 1) generally known in the jurisdiction, or are 2) "capable of accurate and ready
23 determination by resort to sources whose accuracy cannot reasonably be questioned." Fed. R.
24 Evid. 201(b). "[M]atters of public record" outside the pleadings are appropriate for judicial notice
25 on a motion to dismiss. *Lee v. City of Los Angeles*, 250 F.3d 668, 688-89 (9th Cir. 2001) (quoting
26 *Mack v. South Bay Beer Distributors, Inc.*, 798 F.2d 1279, 1282 (9th Cir. 1986)); *see also MGIC*
27 *Indem. Corp. v. Weisman*, 803 F.2d 504 (9th Cir. 1986). Moreover, court filings from other
28 lawsuits are subject to judicial notice under Rule 201(b). *U.S. ex rel. Robinson Rancheria Citizens*

1 *Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992) ("We 'may take notice of proceedings
 2 in other courts, both within and without the federal judicial system, if those proceedings have a
 3 direct relation to matters at issue.'" (quoting *St. Louis Baptist Temple, Inc. v. FDIC*, 605 F.3d
 4 1169, 1172 (10th Cir. 1979)). The above exhibits reflect the other proceedings in this and other
 5 federal courts that have direct relation to the matters at issue. Exhibits 2 through 5 are filings in *In*
 6 *re Abbott Labs Norvir Antitrust Litigation*. Plaintiffs' cases have been related to the *Norvir*
 7 *Antitrust Litigation* by this Court. Exhibit 1 is a rebuttal expert report from the same case that was
 8 not filed, but was exchanged between the parties to that case. Exhibit 6 is a filing from *Cascade*
 9 *Health Solutions v. Peacehealth*, the case Defendant primarily relies upon in its Omnibus Motion
 10 to Dismiss. The contents of these documents are not subject to reasonable dispute and are capable
 11 of accurate and ready determination by resort to sources whose accuracy cannot reasonably be
 12 questioned.

13 For the foregoing reasons, Exhibits 1 through 6 may properly be considered by the Court
 14 in its ruling on Defendant's Omnibus Motion To Dismiss and on Defendant's Motion to Dismiss
 15 GSK's Complaint.

16
 17 Dated: February 14, 2008

Respectfully submitted,

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